IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No.8009 of 2004

Between:

1.The Amar Co-operative Housing Society Ltd. Hyderabad (TAB No. 509) rep by its President.
2. Kavuri Hills Residents Welfare Association, (Regd. No. 1592/89), Kavuri Hills, R.R. District, rep. by its Vice-President.
3. N. Ashok Kumar, S/o. Venkata Swamy,
Centre for Urban Studies, Osmania University, R/o. B-59, Madhura Nagar, S.R. Nagar (Post), Hyderabad - 38.
4.P.V.S.S. Prasad, S/o. late P.V. Rama Sastry,
R/o. Plot No. 70, Kiran Enclave, Sikh Road, Secunderabad.
5.V. Nagabhushana Rao, S/o. Seetharamayya,
R/o. Flat No. 201, Plot No. 31, Sai Shakti Chalapati Residency, Srinagar Colony, Hyderabad.
6. Dr. G.S.C. Chowdary, S/o. Satyanarayana,
R/o. 6-3-596/78/103, Sunrise Apartments, Naveen Nagar, Khairatabad, Hyderabad.

..... PETITIONERS.

AND

1. Hyderabad Urban Development Authority, 1-8-323, Paigah Palace, Police Line, Rasoolpura, Secunderabad. rep by its Vice-Chairman.
2. Serilingampalli Muncipality, Serilingampally, R.R. District, rep by its Commissioner.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the affidavit filed herein the High Court may be pleased to issue such appropriate writ, order or direction to the respondents more particularly one in the nature of mandamus declaring D.O.letter No. 612/Durgam Cheruvu/HUDA/ Dn.V2003, dated 9-12-2003 written by the Vice-Chairman of the first respondent to the second respondent and consequential resolution No. 950, dated 31-1-2003 passed by the second respondent in its council meeting resolving to hand over the vacant land, left out for development of parks in Survey Nos. 43/Part, 44/Part, 45, 46 and 48 in the lay out of Kavuri Hills, Phase-II, in Survey No. 47 in the lay out of Amar Co-operative Society Ltd., in Survey Nos.49 and 50 in the lay out of Origanti Narsimha, Situated at Guttalabegumpet, Serilingampally Mandal, Ranga Reddy District are arbitrary, illegal, without authority apart from violative of principles of natural justice and as such are liable to be set aside and consequently direct the respondents to develop the above said lands as public parks as provided in the lay out plans which were approved by the first respondent.

Counsel for the Petitioners :Mr.HARI SREEDHAR

Counsel for the Respondent No.1: Mr.B.V.REDDY, S.C. FOR

HUDA.

Counsel for the Respondent No.2: Mr.R.THIMMA REDDY.

The Court made the following :

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ORAL ORDER: (per the Hon'ble the Chief Justice)

This is a petition filed in public interest by five petitioners. First petitioner is Amar Co-operative Housing Society. Second petitioner is Kavuri Hills Residents Welfare Association. Other petitioners are individuals. The petitioners allege that Hyderabad Urban Development Authority (HUDA) granted final layout in respect of lands in Sy.No.47 to first petitioner and in respect of lands in Sy.Nos.43 (P), 44(P), 45, 46 and 48 to Kavuri Hills Phase-II Developers and in respect of Sy.Nos.49 and 50 to Origanti Narsimhulu and others. Once final layout had been granted by first respondent, master and zonal development plans stand amended to the extent of lands in respect of which final layout had been granted and as per the layout granted, open lands left for the purpose of park were handed over to second respondent long back for the purpose of development of the area as park. The petitioners have made a reference to Section 5(1) read with Sections 12 (1), 18 and 18-A of the A.P. Urban Areas Development Act and make out a grievance that the area which has been handed over for the purpose of development as park cannot be utilized for any other purpose; thus, questioning the action of the respondents in

utilizing a part of it for construction of sewage treatment plant as illegal, arbitrary and violative of the provisions of the Act. Reference is made to the letter dated 9-12-2003 written by the Vice-Chairman of the first respondent addressed to the Commissioner, Serilingampally Municipality to hand over vacant spaces in the above survey numbers for construction of sewage treatment plant. Direction is also sought to declare the said letter as illegal and arbitrary and to restrain the respondents not to utilize the land for any other purpose except for the development of park.

Reply has been filed by Mrs. Lakshmi Parthasaradhy, Vice-Chairman, HUDA pointing out that utilization of a small portion of the vacant spaces for sewage treatment plant is in larger public interest at the behest of the residents of the locality, particularly the residents of Kavuri Hills and this action on the part of the respondents in utilizing the area is in consonance with the spirit of the judgments in **Medwin Hospitals v. Govt. of A.P.**, **Voluntary Organisations v. State of A.P.**, **Ramakrishna Rao v. HUDA** and **Hinch Lal Tiwari v. Kamala Devi**. It is also pointed out that Durgam Cheruvu is situated in Jubilee Hills in Sy.Nos.45 to 61, 363, 62, 64, 44, 67, 68, 5, 73, 49 and 50. Over the years, as an unfortunate sequel to the rapid expansion of the twin cities, a host of residential colonies and industries have come up in the catchment area of the lake. The matter was brought to this Court by way of public interest litigation. The problem was investigated by the Court pointing out the manner in which adjacent residential colonies have contributed to the pollution of the lake and the Court also dealt with the sewage generated by the colonies and let out into the lake. A report was called for from the Pollution Control Board and after in-depth investigation directions were issued not to allow highly polluting industries within the vicinity of the lake and for collection of sewage and setting up sewage treatment plants. It is also stated that no layout was sanctioned without proper comprehension of the necessity to protect the environment, in particular, fresh water lake like Durgam Cheruvu. While sanctioning layout for residential colonies adjacent to the lake, certain open spaces have been left vacant for public purposes. Ordinarily these spaces are to be utilized for parks, gardens and recreation facilities. But, there is no prohibition in utilizing these vacant spaces for other public utilities. The vacant spaces handed over to the Municipality have not been developed by the Municipality so far. Therefore, keeping in view the larger public interest and to promote and secure development of the area, utilization of a portion of the vacant space for the purpose of setting up of sewage treatment plant cannot be objectionable. Moreover, the petitioners were also contributing to the

pollution and it is in their interest steps are being taken for setting up sewage treatment plants. These vacant spaces are being intended to be utilized for setting up of a sewage treatment plant to deal with domestic sewage, which is presently let out into the lake. The sewage treatment plant will be below the ground level and the remaining portion of the area will be utilized for the park.

Having perused the reply and having considered the submissions made before us, it cannot be said that the action of the respondents is not in consonance with law. Utilization of certain area is for public utility and the petitioners cannot object to the respondents' action when their action is in the larger public interest. Since no ground is made out, we issue no directions to the respondents as prayed for.

Writ petition is dismissed.

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(DEVINDER GUPTA, C.J.)

26th August 2004.

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(C.V.RAMULU, J.)

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To

1. Vice-Chairman, Hyderabad Urban Development Authority, 1-8-323, Paigah Palace, Police Line, Rasoolpura, Secunderabad.

2. Commissioner. Serilingampalli Muncipality, Serilingampally, R.R. District.

3. Two C.D. copies.